



CONDITIONAL USE APPLICATION

- I. The filing deadline will be Friday, _____, 20____, before 5:00 p.m. Please submit this application to the City of Fort Smith Planning Department, 623 Garrison Avenue, Room 331.
- II. There will be a study meeting of the Planning Commission on Tuesday, _____, 20____, at 11:30 a.m. at the Creekmore Park Community Center. The Planning Commission may need information that is not included on the application. Therefore, the Planning Commission urges all applicants to attend the meeting to represent their application.
- III. The Planning Commission meeting will be Tuesday, _____, 20____, at 5:30 p.m. in the Rose Room of the Creekmore Park Community Center. The Planning Commission may need information that is not included on the application. Therefore, the Planning Commission urges all applicants to attend the meeting to represent their application.
- IV. A processing fee of \$350.00 shall accompany this application to cover the administrative costs of advertising the public notice and notifying neighboring property owners. **This fee is Non-Refundable.**

TEN DAYS PRIOR TO THE PLANNING COMMISSION MEETING, THE PLANNING DEPARTMENT STAFF WILL POST SIGNS, LIKE THE ONE SHOWN BELOW, AT THE SUBJECT SITE. PLEASE LEAVE THE SIGN IN PLACE UNTIL REMOVED BY THE PLANNING DEPARTMENT STAFF. WE WILL REMOVE THE SIGNS THE DAY FOLLOWING THE PLANNING COMMISSION MEETING OR SOON THEREAFTER.



CHECKLIST FOR CONDITIONAL USE APPLICATION

Applications must be verified for completeness with the applicant before they are accepted.

- ☐ **Pre-Application Conference (Pursuant to Section 27-302)**
- ☐ **Complete Application & Submit Preliminary Development Plan
(Pursuant to Section 27-331-4)**
- ☐ **Legal Description of Subject Property**
- ☐ **Street Address of Subject Property**
- ☐ **Existing or Proposed Zoning Classification**
- ☐ **Survey & Site Plan (drawn to scale) of Property from Certified
Architect or Registered Civil Engineer**
- ☐ **Description of Proposed Conditional Use, Including the
Development of any Construction Proposed on the Property**
- ☐ **Signature of Owner or Agent Authorized by Owner**
- ☐ **List of all Property Owners Within 300 Feet**
- ☐ **Indicate Whether Restrictive Covenants Apply**
- ☐ **Traffic Study (may be required by Director pursuant to Section 27-303-2)**
- ☐ **Vicinity Map of Subject Property**
- ☐ **Application Processing Fee of \$350.00**
- ☐ **Neighborhood Meeting (Pursuant to Section 27-304)**
- ☐ **Building Permit**

27-332 Conditional Use Permit

27-332-1 Purpose

This division is established to set standards used in approving conditional uses and procedures for processing them. Certain uses are defined as conditional because of the potential harmful effects the use can cause to nearby property and because the requirements needed to eliminate those harmful effects vary from site to site. The planning commission will review the overall compatibility of the planned use with surrounding property as well as such specific items as screening, parking and landscaping to make sure that no harmful effects occur to nearby property.

27-332-2 Applicant

An application for a conditional use permit may be submitted by the owner of the property or the property owner's authorized agent.

27-332-3 Pre-Application Conference

A pre-application conference is required pursuant to Section 27-302.

27-332-4 Submission Requirements

The Planning and Zoning Department shall provide an application form specifying the information to be submitted in support of a conditional use permit application. This shall include, at a minimum:

- A.** A preliminary development plan (Section 27-331). Only uses listed as conditional uses are eligible for consideration (except as governed by Section 27-403).
- B.** A survey and site plan of the property prepared by a certified architect or registered civil engineer.
- C.** A description of the proposed conditional use, including the description of any construction proposed on the property.
- D.** The names and addresses of all owners of property included in the conditional use application.
- E.** Application fee.
- F.** Any information on restrictive covenants that apply to the property that appears to restrict or prohibit the conditional use requested. (Note: The City does not enforce restrictive covenants.)
- G.** Where the proposed land use has the potential for significant traffic generation or may change traffic patterns, the Director may request a traffic study with the application. Section 27-303-2.

- H. In addition to the above information, the applicant shall submit supportive information that shall include but not be limited to the information required in section 27-332.
- I. Other information as specified on the application form and as requested by the Director, other departments or agencies, Planning Commission, or the Board of Directors.

27-332-5 Planning Commission Application and Review Procedures

- A. **Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by the Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., Comprehensive Plan Amendment) are submitted with the appropriate fees to the Planning and Zoning Department.
- B. **Neighborhood Meeting** The applicant shall comply with the requirements for a Neighborhood meeting pursuant to Section 27-304.
- C. **Staff Review** Following a determination of completeness, the Planning and Zoning Staff shall review the application pursuant to Section 27-305.
- D. **Notice and Public Hearing** Following completion of the Planning and Zoning Department review and the required neighborhood meetings held by the applicant, the application shall be scheduled for a public hearing before the Planning Commission.
 - 1. Public notice shall be provided pursuant to Section 27-308. The notice shall be published in a newspaper of general circulation in the City of Fort Smith, mailed and posted.
 - 2. The Planning Commission shall consider the criteria listed in Section 27-332-5(E), below in making a recommendation.
 - 3. The Planning Commission shall consider conditional use applications at their Regular monthly meeting by holding the required scheduled public hearing On a conditional use application at that time.
- E. **Factors to be Considered.**
 - 1. Compliance with the following development standards and design specifications shall be the basis for the approval of conditional uses:
 - a. The design, location and operating plans for the use shall ensure that the safety of the public is protected.
 - b. The proposed land use shall not adversely affect nearby properties.
 - c. The size and shape of the site in relation to the size, shape and arrangement of structures (maximum lot coverage and applicable setbacks) meets the minimum requirements of this chapter.

- d. The entrances and exits, internal street systems, off-street parking and loading facilities and pedestrian walkways are adequate for the proposed purpose.
- e. Nearby properties shall be protected from fumes, lighting, noise, glare, dust and odor.
- f. The landscaping and screening required to meet the intent of this section shall be provided.
- g. Open space shall be maintained by the property owner.
- h. Signage shall conform to the requirements of this chapter.

2. Development Plan

- a. The site is capable of accommodating the buildings, parking areas and driveways while retaining the required amount of open space;
- b. The plan provides for safe and efficient ingress, egress and internal traffic circulation;
- c. All easements and utilities shall meet the requirements of the approving departments and agencies;
- d. The plan is consistent with good land use planning and site engineering design principles, particularly with respect to safety and aesthetics;
- e. The architectural designs are consistent with the City of Fort Smith's policies and regulations and compatible with surrounding land use features;
- f. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, Master Land Use, and Master Street Plan, and any other adopted planning policies;
- g. The amount of right-of-way dedication needed for a roadway shall be determined by the City Engineering Department.

F. Planning Commission Action. After the public hearing, the commission shall take one (1) of the following actions:

- (1) Approve the application as submitted
- (2) Approve as amended.
- (3) Continue the application to a date certain.
- (4) Deny the application.

- G. Conditions.** The Planning Commission may impose conditions and restrictions upon the property under consideration with the intent of minimizing the impact of the conditional use upon nearby properties.
- H. Minimum Requirements** The Planning Commission shall not reduce requirements associated with a conditional use request concerning the minimum requirements of this chapter unless unusual circumstances or hardships exist.

27-332-6 Conditions

- A. Conditions Must be Met** All requirements for a conditional use must be met before any part of the use may be utilized. If any specific condition is not met, the conditional use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314
- B. Timing.** Requirements for a conditional use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.
- C. Variances.** No variances may be granted to a conditional use authorization except that the Director may grant minor changes to the conditions imposed as long as they conform to the intent of the Planning Commission. No building permit shall be issued for a conditional use until the provisions of this section have been met.

27-332-7 Appeals

The decision of the Planning Commission concerning a conditional use request may be appealed to the Board of Directors. Any interested party may file an appeal provided that it is filed with the City Clerk by 5:00 p.m. on the tenth calendar day following the date of the Planning Commission decision. A fee in an amount established by the Board of Directors is required for filing an appeal.

Additional Information-Restrictive Covenants

What's the Purpose of Restrictive Covenants?

Restrictions give a development a more standard appearance, and control some of the activities that take place within its boundaries. When enforced, covenants protect property values.

What You'll Always See in Covenants

Restrictive covenants nearly always stipulate the minimum size residence allowed, how many homes may be built on one lot, and what type of construction the homes must (or must not) be.

More Topics You'll See in Restrictive Covenants

- Set backs (how far homes must be from streets and interior lot lines).
- Easements (such as a pathway for power lines or roads).
- Fees for road maintenance or amenities.
- Rules regarding changing or voiding the covenants.
- Rules about pets and other animals (for instance: no breeding for profit, no livestock, no unchained pets).
- Regulations dealing with in-home businesses and home rentals.
- Rules that limit tree-cutting.
- Clauses that dictate what type of fencing can be used, or that forbid all types of fencing.
- Clauses to reduce clutter on lots, such as prohibiting owners from storing a vehicle that doesn't run within view of others, or parking a recreational vehicle on the property.

Some restrictions limit the paint colors that can be used on a home's exterior. Some might require that all homes have a certain type of siding. In areas where wildfires are a problem, covenants might require you to use only fire retardant building materials.

INSTRUCTIONS FOR FILING CONDITIONAL USE REQUEST

A. APPLICATIONS FOR CONDITIONAL USE

1. Attend a Pre-Application Conference meeting with the Planning & Zoning Department at least ten (10) days before the application deadline.
(Pursuant to Section 27-302 of the Unified Development Ordinance)
2. Complete the application & submit a preliminary development plan
(Pursuant to Section 27-331-4 of the UDO)
3. List the name of the property owner and authorized agent if applicable.
4. Provide the legal description of the property included in the conditional use request.
5. Provide the street address of the property.
6. Provide the existing and proposed (if applicable) zoning classifications of the property.
7. Provide a survey & site plan (drawn to scale) of the property from a certified architect or registered civil engineer.
8. Describe the proposed conditional use request, including the development of any construction proposed on the property.
9. The application must be signed by the owner or an authorized agent.

B. LIST OF ALL PROPERTY OWNERS WITHIN 300 FEET

1. Give the names and addresses of the owner(s) of every piece of property within 300 feet of the property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse, Room 107. Please call the Tax Assessor's Office at 783-8948 to schedule an appointment. A small charge will be assessed for this service. (The Planning Department will mail the notices for you.)

C. LETTER REGARDING RESTRICTIVE COVENANTS

1. If you have restrictive covenants, enter any part of a restrictive covenant applicable to the property that appears to prohibit this conditional use request.
2. If there is no restrictive covenant in effect, enter the word NONE.

D. TRAFFIC STUDY

1. A traffic study of the site may be required by the Director pursuant to Section 27-303-2.

E. MAPS OF THE AREA

1. A survey and site plan prepared by a certified architect or registered civil engineer must be submitted. Indicate on the site plan all existing and proposed improvements (structures, parking lots, driveways, signs, etc.) The site plan must include all information described in section 27-331-4 of the Fort Smith Unified Development Ordinance. (See attached) Indicate the proposed conditional use request and any other useful information concerning the property and proposed

development. File with the application twelve (12) copies of the survey and the site plan. For printing purposes, one (1) copy of each drawing to be no smaller than 8 ½" X 11" or larger than 11" X 17".

2. If the site plan has been amended by the Planning Commission, two (2) copies of the approved site plan shall be submitted to the Planning Department within thirty (30) days of the Planning Commission approval.
3. Vicinity Map.

F. BUILDING PERMIT REQUIRED

1. After the conditional use request has been approved by the Planning Commission, a building permit shall be required for any improvements to the site. All requirements for obtaining a building permit shall be met.

G. APPLICATION PROCESSING FEE

1. A processing fee of three hundred & fifty dollars (\$350.00) must be paid to the City of Fort Smith at the time of filing the application. **This fee is Non-Refundable.**

H. NEIGHBORHOOD MEETING (See Section 27-304)

1. Notify all properties within 300 feet of the petitioned property.
2. Written notice of meeting time and place provided to Planning Department and residents/property owners seven days prior to neighborhood meeting.
3. Provide summary report and attendance list of meeting to Planning & Zoning Department.

Conditional Use # _____

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: _____

Name of Authorized Agent (if applicable) _____

Legal Description of property included in the conditional use request:

Street Address of Property:

Existing Zoning Classification:

Proposed Zoning Classification (if applicable):

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

What amenities are proposed such as landscaping and screening?

Owner or Agent Name (please print)

Signed:

Owner or Agent Mailing Address

Owner

Or

Owner or Agent Phone Number

Agent

LIST OF ALL PROPERTY OWNERS WITHIN 300 FEET

(Please Type or Print)

The Planning Department is required to give notice (in writing) of this application to all property owners within a 300 foot radius of the subject property. List the name and address of the owner of every piece of property within 300 feet of any part of the property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse, Room 107, for a small fee . Please call the Tax Assessor's Office at 783-8948 to setup an appointment. (The Planning Department will mail the notices for you.)

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____
16. _____	_____
17. _____	_____

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a conditional use by application do hereby authorize _____ to act as our agent in the
(Print Name of Agent)

matter.

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

This form is necessary only when the person representing this request does not own all the property.

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location _____

Meeting Time & Date _____

Meeting Purpose _____

NAME

ADDRESS

PHONE #

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____

27-302 Pre-Application Conference

27-302-1 When Required

A pre-application conference with the Planning and Zoning Department is required for certain development applications, as identified in Table 27-301.1 (Application Procedures) and indicated by the individual application type sections below. The purpose of the meeting is to:

- A. Review the requirements of the Unified Development Ordinance;
- B. Review the requirements of the Fort Smith Comprehensive Plan;
- C. Discuss the nature and design of the proposed development; and
- D. Discuss the development application review and approval process.

27-302-2 Timing The pre-application conference shall be held at least ten (10) days before the submission date unless otherwise specified by the Director. Applications must be submitted within six months of the conference date or a new conference shall be required.

27-302-3 Additional Parties As necessary, the Planning and Zoning Department may include representatives of other departments or agencies at the pre-application conference.

27-303 Application Requirements

27-303-1 Materials

Current development application with submittal requirement instructions is available from the Planning and Zoning Department. Most applications are also available on the City website. All materials submitted in support of a development application become part of the public record and are generally not returned to the applicant(s).

27-303-2 Technical Studies

The Director may require applicants to prepare additional technical studies in support of their applications for rezoning, planned rezoning or special use permits. The cost of the study shall be the applicant's responsibility. If the applicant disagrees with the Director's decision to provide additional technical studies, it may be appealed to the Planning Commission for a final decision. No further action shall be taken to process the development application until the Planning Commission makes a final determination on the appeal.

27-303-3 Deadlines

The Planning and Zoning Department has a list of submission and revision deadlines for the various development applications available at their office. This list is also available on-line at the City's website. Failure to submit a complete or revised application on or before the deadline shall result in the City not placing the application on the scheduled Planning Commission agenda.

27-303-4 Completeness

Within three (3) business days of submittal by the applicant, a member of the Planning Staff shall review the development application to ensure that it is complete.

A. When Complete.

An application is complete when all of the items required by the UDO and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., comprehensive plan amendment) are submitted with the appropriate fees to the Planning and Zoning Department.

B. Return of Incomplete Applications.

Incomplete applications shall be returned to the applicant with a written description of the missing information, defects, or other problems. The Director shall take no further action on incomplete applications. Appeals of this determination are made to the Planning Commission, which is the final decision-making body. No further action shall be taken to process the application until after the Planning Commission's determination. Applications that have been returned to an applicant for revisions shall not be processed until such revisions have been determined to be complete by the Director.

B. Processing Complete Applications.

The applicant will be notified that the application is complete and processed in accordance with this Chapter.

C. Failure to Act.

If the Director fails to act within three (3) business days, the application shall be deemed complete.

D. Revisions Following Determination.

Following a determination of completeness, any further revisions to the application by the applicant without the approval of the Director, or modifications which are contrary to the directions of the Planning Commission or Board of Directors shall void the determination of completeness and trigger a new three (3) day review period. All processing of the application shall stop until a new, complete application has been filed.

E. Determination Not Substantive.

A determination of completeness shall not constitute a determination of compliance with the substantive provisions of the UDO.

27-303-5 Fee Schedule

Application fees shall be set in an amount to recover the costs of processing, publicizing, and reviewing development applications. The Board of Directors shall set the fee schedule, which shall be included as an appendix to this Code. The Board may periodically review and modify the fee schedule based on the cost changes associated with the development application.

27-304 Neighborhood Meeting

27-304-1 When Required

A neighborhood meeting is required for certain development applications, as identified in Table 27-201.1 (Application Procedures) and indicated in the individual application type sections below. When not required, applicants are encouraged by the Board of Directors, Planning Commission and Planning Staff to meet with property owners who may be affected by the proposed development.

27-304-2 Neighborhood Identification

Generally, the neighborhood shall include all parcels located within 300 feet of the boundaries of the parcel proposed for development, and any homeowners association, neighborhood association or merchants association registered with the Planning and Zoning Department and located within 300 feet of the parcel.

27-304-3 Meeting Arrangements

The applicant shall be responsible for providing a meeting location and conducting the meeting at a time and place reasonable to the residents of the neighborhood. Written notice of the location and time of the meeting shall be provided by the applicant to the Planning and Zoning Department and residents of the area defined as the neighborhood at least seven (7) days prior to the meeting. The meeting should also be held at least 6 days before the planning commission voting meeting.

27-304-4 Meeting Content

At the meeting, the applicant shall present a full and accurate description of the proposed development plans, describe projected impacts of development, describe plans to mitigate or off-set impacts, and facilitate a discussion of neighborhood questions and comments. The Planning Staff shall attend the meeting, but shall not be responsible for organizing the meeting or presenting information about the project.

27-304-5 Meeting Report

Following the neighborhood meeting, the applicant shall provide the Planning and Zoning Department with a mailing list of the people who attended the meeting and a written summary of the discussion and comments. All documents and materials which detail the proceedings of the neighborhood meeting shall become part of the public record for the development application and should be submitted to the Planning and Zoning Department.

27-331-4 Development Plan: Preliminary

The size, scale and number of copies (paper and digital) required to be submitted shall be established by the Planning and Zoning Department. The Department shall establish a checklist of Preliminary Development Plan requirements that includes the following:

A. The development plan shall be submitted electronically as a PDF file and on paper no larger than twenty-four by thirty-six inches (24 x 36), with at least one copy of each page provided on an 11" x 17" paper. The development plan shall be drawn to a scale of no less than one inch equals twenty feet (1:20) unless the Director approves a different scale.

B. The name, address, phone number, and e-mail address of the landowner and architect/engineer/surveyor/ planner/contractor shall be provided. An authorization of agent from the property owner shall also be provided, which acknowledges and approves the application submitted on the owner's behalf.

C. The date, north arrow, scale, existing zoning classification and proposed zoning classification;

D. Vicinity map at a scale of not less than 1" = 500';

E. Location and size of existing and proposed right-of-ways, easements, public improvements, infrastructure, overhead transmission lines, sewer lines, water mains, gas mains, culverts, and other underground installations.

F. Size dimensions, use and location of, and entrances to existing and proposed structures and drives on the subject property. This includes the dimensioned distances between buildings (existing that shall remain and proposed) and the distances from the structures (existing that shall remain and proposed) to the property lines;

F. Identification of existing zoning, structures, and driveways on the properties within 300 feet of the subject property;

G. The street address or address of entire property and a legal description of the property, showing the location and type of boundary and including a statement of the total area of the property;

H. Existing topography with a maximum contour interval of 5 feet, except where existing ground is on a slope of less than 2%, then either two-foot contours or spot elevations shall be provided;

I. Proposed finished grades may be shown either as percentages or with finished contours;

J. Location of floodplains and areas subject to flooding, centerlines of drainage courses and finished floor elevations of proposed buildings;

K. The height, number of floors, proposed square footage of buildings, both above and below or partially below the finished grade;

L. The setback dimensions from the development boundaries and adjacent streets and alleys;

M. Existing and proposed traffic and pedestrian circulations system, including the location and width of all streets, driveways, entrances to parking areas and parking structures, walkways and bicycle paths;

N. Off-street parking and loading areas, including dimensions or proposed drives and parking spaces, and structures and landscaping for parking areas;

O. Description of outdoor surfacing and/or paving for all parking and loading areas;

P. Green belt and other active recreation and greenspace areas, together with proposed private recreation areas, specifying the proposed improvement of all such areas, and delineating those areas proposed for specific types of recreation facilities;

Q. The proposed location, description, and screening plan for dumpster facilities for garbage drop off, storage, disposal, and pick-up;

R. When the development is to be considered in phases provide a development schedule showing the order of construction and approximate completion date for each phase;

S. Preliminary architectural building elevations, listing of proposed building materials, a material and color palette (where required by specific zoning district), and proposed written design guidelines (for non-residential development that supplements the City's existing regulations);

T. A master sign plan which details the proposed signage for the site (including flat signs on building facades);

U. A landscape buffer concept plan that details the basic size, quantity, and type of screening material (fences, walls, and plants) to be used for the perimeter treatment of the property. The concept plan should also have a description of land uses, setbacks, and the relationship of the subject property to the surrounding areas.

V. Preliminary drainage and erosion control information which meets City, State and Federal requirements;

W. A chart displaying the following information as applicable:

1. Total number of dwelling units;
2. Residential density and units per acre;
3. Gross floor area per floor (in square feet), number of floors, height of building, total floor area, and floor area ratio for each structure;
4. Total acres in open space;
5. Total number of off-street parking spaces required, method of calculation and the number of spaces provided;
6. Seating capacity (where appropriate);
7. Uses by floor.

(Note: Development plans will not be required for neighborhood or corrective rezonings)

27-303 Application Requirements

27-303-2 Technical Studies

The Director may require applicants to prepare additional technical studies in support of their applications for rezoning, planned rezoning or special use permits. The cost of the study shall be the applicant's responsibility. If the applicant disagrees with the Director's decision to provide additional technical studies, it may be appealed to the Planning Commission for a final decision. No further action shall be taken to process the development application until the Planning Commission makes a final determination on the appeal.